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in the above places for signatures. states, 4 That your Petitionres have long suffered, and are now daily suffering, great inconveniences, heavy losses of property, and distressing insecurity of personal liberty, from the great and general abuses in the Administration of our common and civil Laws. That the unexampled perversions of our political and civil institutions, both in principal and practice, are to a considerable extent, at once the causes and the effects of innumerable and lamentable fallures in trade, and awful increase of pauperism; they fill our crowded jails, bethlems and work houses, cause idleness, despondency, and misery, among our once industrious poor; they multiply frauds, conspiracies, perjuries, oppressions, exactions, robberies, and murders, and every other crime and calamity, that can degrade and afflict a coun-These are facts now too well known to all experienced men, to need the particularising of any examples, proofs, or comments. That the peculiarly degrading and perilous condition of the numerous classes of Traders, and others who are subject to the Excise Laws and Assessed Taxes, your Petitioners humbly recommend to legislative attention, as by various new and vexatious statutes, passed in the present Reign, some taking away rights and other inflicting great wrongs; and the present unconstitutional and dangerous practice of the inquisitorial courts, which now preside over these branches of the public revenue, a very considerable portion of his viajesty's Subjects, are not only placed beyond the pale of the constitution, but their property is exposed to the wildest ravages of unbridled power, without a chance of escape, legal defence, or legislative redress. These facts will, if necessary be proved at the Bar of your Honourable House, by a multitude of recent examples and well authenticated cases. Your Petitioners therefore humbly and earnestly pray, for the immediate revisal, simplification, and radical reformation of our civil code; and that it may, in an authorized and legal form, be committed to writing and printing, after the present manuer of other civilized nations. Your Petitioners, are well persuaded, that greater cruelty and injustice cannot be inflicted upon the people of a populous and trading Country, than by attempting to govern them with laws, which they have not constitutionally sanctioned, and do est understand. Your Petitioners likewise humbly pray, that an inquiry into the official conduct of the Commissioners of Assessed Taxes, and Excise, may be instituted; and that we the undersigned, and all our fellow subjects may be restored to the constitutional protection of the genuine chartered laws of this land; which most solemnly covenants and declares to us, that "justice shall in no case be denied or delayed." This only, but nothing short of the restoration of this sacred bond, both in letter and spirit, do we now crave as the natural or divine right of all and every class of the British and Irish people. And your Petitioners will pray.

At a Meeting held at the Thatched House Tavern, on Friday, July 8, 1814, it was resolved unamimously, "That the Inhabitants of these Islands have now arrived at that stage of civilization, and mental improvement, as to render it essential to their permanent prosperity, to be made acquainted with the fundamental principles and practised forms, of that system of national law intended to govern and protect them. It is, therefore, the duty of every rational and honest man, in defence of himself, his kindred, and posterity, to step forward in aid of that enlightened and humane Senator, Earl Stanhope, in the Upper House of Parliament, to stay the ravages of that blind and cruel system of perverted law now in practice in this country, and to forward a Constitutional application by petition to the Legislature, to obtain a printed Civil Code or Laws, on the principles of equity, recognized by the Great Charter of Englishmen's Rights; and conformable to the general usage of the present times, and examples of other civilized nations. And that a subscription be opened, to defray theexpence of petitioning both Houses of Parliament on this important subject."

PARLIAMENTARY REFORM.

Letter from Major John Cartzvright to the Rev. Christopher Wyvill. (Continued from page 62.) LETTER XIX. Strike, but hear!

DEAR STR,—In bringing this series of letters towards a close, I must express a hope that our English Reformists will call to their recollection certain events which have occurred since the commencement of the anti-freedom war, in 1792;

as well as cast an eye on what is now actually passing in some of the countries with which we hold connexion.

On Corsica, when in our hands, we conferred general and equal representation in AN-NUAL Parliaments. To Sicily we have restored the use of Parliaments; but with what further securities for liberty I cannot yet say. In Spanish America, from end to end, from side to side, we see stremuous exertions not merely for emancipation from the dominion of the mother country, but for Constitutions founded in freedom, by means of fair representation A Constitution has been actually agreed on in the Confederation of Venezuela. It begins thus :-- " In the name of the all-powerful God, we, the people of the States of Venezuela, acting from our own sovereignity," &c. It institutes a House of Representatives and a Senate; " with Trial by Juries;" and breathes throughout a manly spirit, accompanied with maxims of much wisdom. But I would more especially recommend to your notice the regeneration of liberty in Old Spain; particularly calling to your attention the precise time, and singular circumstances when the new Spanish Constitution received its birth.

It was when the Certes, pent up in the besieged city of Cadiz, and the small isle on whic: it stands, without another incoft territory on which to plant their foot, that that constitution was deliberately framed; the thunder of the Tyrant's cannon honouring every article "with an hostile salute, with no other effect than to encrease the vigour, firmness and fortitude of the Assembly." Can Englishmen read this, and not determine to have a fair and equal representation?

Under the unhappy circumstances of Spain, where a double despotism, civil and religious, had well nigh extinguished literature, the nurse of knowledge, a perfect production was not to be expected; but still the new Constitution hath in it a good sense and vigour, which I hope the gentlemen of Yorkshire as well as of every county in the kingdom, will take care shall not make them blush. This Constitution is set forth in writing, that it may not be subject to misrepresentation, and an eternal object of cavil and conjecture; but that it may be known as a tangible reality for the guidance of pub-

It declares the Spanish people to be free and independent; that they neither are, nor can be, a family patrimony: (2) That the sovereignity resides in the nation: (3.) That the State, by its laws, is bound to preserve and protect civil liberty and property: (4.) Although in the choice of the Members of the Cortes, they have fallen into plausible errors, yet the parish meetings, in which election originates, are composed of all the male inhabitants, civil and ecclesiastical, Monks alone excepted. General elections are not, at the discretion of the crown to be brought on by surprize, and managed by intrigue; but fixed by law, and biennial. To elect the deput es to the Cortes, is a duty, from the performance of which none can be exempt. There is no dependence on the pleasure of the Crown, for the time of assembling; which is regularly to take place on a certain day: (106.) And if not then opened by the king, in person, that ceremony devolves on the president: (121.)

No Minister nor Councillor of State, can have a seat in the Cortes, as a Member. (95.) If such have communications to make from the King, they may "attend,' and they may "speak," but "cannot be present on proceeding to the vote." (125.) "No Member can accept for himself, or solicit for another, any employment or grant from the King; nor any degrees of increased rank; as there must be no step-ladder in his career." (129.) Even for one year after his service in the Cortes has expired, "he cannot obtain for himself, nor solicit for another, any pension or dignity whatever from the

King." (130.)

"To protect the liberty of the press," is made incumbent on the Cortes. (131.) If the King's assent to a law be retused, he must assign his reasons." In a second session, he may still withhold his assent; but if adhered to by the Cortes in a third session, "it shall be understood that he gives his assent:" "and on presenting it to him, he will give it in the words prescribed by the Constitution." (149,143.) During the recess, a "permanent Committee" is to keep a vigilant "eye on the observance of the Constitution and the laws," as well as "to convoke extraordinary" meetings, as occasions may require. Whoever may counsel, or assist any attempt whatever, to "prevent the

lic functionaries, and the protection of the nation.

Preface VII.

assembling of the Cortes" at the proper periods, or to "suspend or dissolve" that assembly, " are declared traitors, and shall be prosecuted accordingly," (172.) Each Member swears "religiously to guard and keep protected the Constitution." (117.) The King, in presence of the Cortes, swears the same; and that " above all he will protect the political liberty of the nation, and the personal freedom of every individual;" on which occasion he says, " and if to what I have sworn or part thereof, I should act contrary thereto, I ought not to be obeyed." (173.) The founders might, perhaps, recollect a similar oath with its coercive means of enforcement, made by John of England, to the Barons in Magna Charta; nor would they be likely to have forgotten the Arragonese oath of allegiance, which says, "We, who are each of us as good, and who are altogether more powerful than you, promise obedience to your government, if you maintain our rights and liberties; but if not, NOT."

The heir to the throne, as well as the Councillors of State, also swear "to defend the Constitution." All children, in their preparatory education, are to be "taught a brief explanation of their civil duties;" while "all universities and literary establishments, where the ecclesiastical and political sciences are taught, are bound to explain the political constitution" of their country (368.)

What, on a matter of such high concernment, has been done in ENGLAND? Her Constitution, here unwritten, even the learned are thereby misled; error is abundantly disseminated for truth, and ignorance for knowledge; the factions are taught how to cavil and misrepresent; while profligate plotters are furnished with means of undermining and subverting our liberties, while they pretend to explain or to support the constitution.

As immediately connected with English EDUCATION, I know but of two political works particularly in use; the Commentaries on the Laws of England, by Blackstone; and The Frinciples of Moral and Political Philosophy, by Paley. On these works I shall submit to you a few such remarks as relate to the subject of these Letters. Those on Blackstone I subjoin; those on Paley must be reserved for my next and last Letter.

When it is recollected how voluminous had been the writings of some on the laws of England, and how many had like-

wise written on its celebrated Constitution; when, in particular, it is observed, how much attention had been paid to both, in his Spirit of Laws, by Montesquieu, whom our Author had diligently studied; it was truly surprising and greatly to be lamented, that, when first meditating on the composition of his Commentaries, he had not asked himself this simple question. Have the words Consti-TUTION and LAW only one and the same identi cal meaning; or do they express two different ideas? Had he fortunately asked himself this question, the train of reflection that in a mind so discriminating, so well stored, and so powerful, as his, must have followed, would doubtless have prevented some great blemishes in a work of otherwise extraordinary excellence.

Here I particularly allude to a radical

Here I particularly allude to a radical error at the very threshold of his edifice, in his definition of LAW; as well as to his inaccurate ideas of "supreme power," of "sovereignity," and of an absolute despotic authority in Parliament. The first mentioned of these inaccuracies we may consider as a prolific seed, from which the other errors have sprung; and and we are much indebted to a vigilant and virtuous constitutional watchman, who under the signature of Trueman, in the Statesman Newspaper, has, on the sound authority of Bracton, recently pointed it out.

Blackstone defines law to be " a rule of action, which is prescribed by some superior, and which the inferior is bound to obey:" whereas Bracton savs, " Lex est sponsio Reipublica." In English, " Law is the common will of the Republic," that is, of the community or nation, as a state.* On another occasion, Bracton says, "Law is a rule set up by the consent of those who use it;" that is, for those whose use it is made law. Blackstone still under the influence of his first error, and with England of course in his mind, calls municipal law "a rule of civil conduct, prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong;"† and this " supreme

The Government of England, although it have a King and Lords, yet as tounded in frecion having for its object the common weal, it is nevertheless properly a commonwealth; and formerly was so styled, even in Royal Proclamations and Acts of Parliam B.

[†] I. 44, 122.

power" he, without due consideration, and inconsistently with his own words in various instances, places in the "legisla-

ture," or "parliament."

To "Parliament," he therefore attributes "absolute despotic power, " transcendent and absolute, that it cannot be confined, either for causes or persons, within any bounds." But how does this extravagant notion agree with what he elsewhere says, in reference to what has been written on "an original contract?" "And this," says he, "is what we mean by the original contract of society, which, though perhaps in no instance it has ever been formally expressed at the first institution of a State, yet in nature and reason must always be understood and implied, in the every act of associating together : namely, that the whole should protect all its parts, and that every part should pay obedience to the will of the whole."+

Had he attended to Bracton's definition of law, and consulted, in the outset, his own strong understanding, his Commentaries would have been as satisfactory as they are eloquent; he would have seen that in the Nation alone resides a true, literal sovereignty; that the sovereignty of Parliament, for practical legislation, is fiduciary and figurative; and the sovereignity of the King, 2s the highest executive magistrate, for executing the law, is likewise figurative, and still inferior to the other two; being subordinate to that

of Parliament.

He would then have seen his error in talking of a "despotic power" in Parhament; and that it was not even a legitimate authority at all, unless it contained an actual representation of the people, according to "nature and reason;" he himself tells us that "a statute is placed a nong the records of the kingdom; there needing no formal promulgation to give it the force of law, because every man in England is, in judgment of law, party to the making of an Act of Parliament, being present thereat by his representatives."

Agreeable to this principle, and to Bracton's definition of law, he, in another place, says, " the original power of judicature, by the fundamental principles of society, is lodged in the society at large;"§ and for explaining the ground on which

legal punishments are inflicted, he remarks, that "the temporal magistrate is empowered to inflict coercive penalties for transgressions; and this by the consent of individuals, who, in forming societies, did either tacitly, or expressly, invest the" [legislative] "sovereign power with a right of making laws." The lawfulness, therefore, of punishing such criminals is founded upon this principle, that the law by which they suffer was made by their orun consent."

Here, then, seeing that in every free state there are three species of sovereighty; the 1st, original, inherent, and literally such, in the nation; the 2nd, derivative, fiduciary, and only figuratively such, in the legislature; and the 3d, still farther derivative, fiduciary, and also figuratively such, in the Chief Magistrate; and seeing that both a constitution and ordinary law is "a rule, which a nation sets up for its own use; and that a Legislature and a Chief Magistrate, who officiate only in trust, require to be held to their respective duties, by bonds sufficiently strong, we come to see what is meant by a Constitution, in contradistinction to ordinary Law.

In An Appeal to the Nation, † it has, therefore been said-" With humility, but with a confidence of rectitude, we hold that the English Constitution may be thus defined and explained; namely, a Constitution, whereof the spirit consists of all those principles on which political liberty depends; and the body, or material form whereof, consists of the four institutions, which for the State's self-preservation, for the means of necessary legislation, for the purposes of magistracy, and for the security of personal freedom, are equally indispensable; these four institutions being as follows: namely, 1st, a natural Militia, that consists of the whole physical strength of the community, from the duke to the peasant, suitably organised; the same being from its ubiquity and resistless force all potent; in police, by preventing the possibility of dangerous riots; in government, by preventing the possibility of serious insurrection or rebellion; and in war, by preventing the possibility of successful invasion ;

[‡] I. 185. + 1.47. • I. 160. § I. 266.

[†] Published in 1812. t See Sir W. Jones's legal means of Suppressing Riots. Also an Appeal, Civil and Military, on the English Constitution; and England's Ægis.

"2d. A Legislature of [King, Lords, and Representatives of the Commons; the authority of the latter being incapable of a duration beyond one year; such Legislature, for securing a right management of public affairs, being entrusted with a controll over all magistracy, and the guardianship of the public purse; and with authority also, as circumstances may require, of enacting such statute law," and such only, as shall not have the nature of a felo-de-se, by violating any fundamental principle of the Constitution, the conservation of which Constitution is the sum of the duties of the Legislature.

"5d. An Executive Magistracy in the King, his person being inviolable, his

Ministers responsible.

"4th. Trial by Jury, that public liberty may not be stabbed through the sides of the private citizen, by any injustice which might endanger his property, his personal freedom, his life, or reputation; and that the individual, equally with the aggregate of the community, may repose in tranquillity, protected by the Consitution and the Law."

As a definition and explanation, the foregoing, condensed as it is, will, as I conceive, be found sufficiently ample; I am not aware that more can be introduced as an essential part of the Constitution, since, were all the powers and authorities necessary, in the first place, for the conservation of the Constitution itself; and, in the second place, for supplying laws, either declaratory or fundamental principles, or for the convenient conduct of public affairs. Blackstone not having discovered that the Constitution ought to be contradistinguished from ordinary Law; nor being aware within what a narrow compass the former was contained, nor apprised of its beautiful simplicity, fell, of course, into a very confused and incorrect mode of expressing its nature; when he says, "That Constitution, or frame of Government, that system of linus, is alone calculated to maintain civil liberty," &c.+ for here we are referred, in fact, to the mass of our laws, written, and unwritten, as that of which our Constitution consists.

"But, under so monstrous a supposition, our Constitution, which is in truth the standard of all legal rectitude, and therefore ought ever to be contemplated

as something fixed and certain, would, to our unexpressible misery, be the most fluctuating thing belonging to us, absolutely changing its identity, not only with every new statute, but even every new decision of the Judges." If such were our Constitution, "what a wretched lot would be ours! If the Abridgment of our law by Viner, fill five-and-twenty volumes in folio, or thereabout, and occupied more than half a century of that laborious Author's time, such a Constitution must needs require nine times as many volumes to contain it, at the least."

Blackstone's notion of political liberty, as an effect of the Constitution, was also, narrowed by the influence of his professional studies, as a lawyer. In his Chapter on "The Rights of Persons," he, indeed, very properly premises, that " the absolute rights of every Englishman (which, taken in a political and extensive sense, are usually called their liberties,) as they are formed on nature and reason, so they are coeval with our form of government | After enumerating these " liberties" under three heads, namely, " personal security, personal liberty, and the absolute right of private property," he goes on to say, "so long as these remain in-violate, the subject is perfectly free." Now it is most certain, that under any wise and benevolent despot, who should adopt the doctrines of this chapter, his slaves in the enjoyment of all these advantages, might have complete legal protection, without a particle of political libertv.

Wherefore the great commentator, in not having enumerated among "the absolute rights of every Englishman," the right to legislative REPRESENTATION, which is only another word for POLITICAL LIBERTY, is here lamentably deficient, as leaving all those other boasted rights without either foundation or fence. Without this, the greatest of all rights, "personal liberty, and "private property," are empty sounds. It is this, and this alone, that stamps on those a sterling value, by imparting to them assurance and stability. Unless a People, individually and collectively, annually enjoy an equal election of national representatives, so that law, according to the Constitution, and to the venerable Bragton, be "the

[·] Ibid.

[†] I. 126

common will of the community," to talk of "personal liberty," and "private property," is mere delusion. Of what value are these, if Sir George Saville spoke correctly, when he told the House of Commons "they might as well call themselves the representatives of France as of the people of England;" and if, as Blackstone says, "the power and jurisdiction of Parlament is so transcendent, and absolute, that it cannot be confined, either for causes or persons, within any bounds;" that it possesses "absolute despotic power;" that "it can, in short, do every thing that is not naturally impossible." \$

Such a picture thus drawn of an English Parliament, not failing to impress on him who drew it the extreme danger to be apprehended, he immediately remarks, "It was a known apothegm of the great lord treasurer Burleigh, that England could never be ruined but by a Parliament;" and yet, to our astonishment, the sole prevention he suggests is, " that such Members be delegated to this important trust, as are most eminent for their probity, their fortitude, and their knowledge.' Yes, to be sure, the sinks of corruption, will send forth "Members" to rescue us from the "absolute power" of the accursed borough faction!

Before we lose sight of "the absolute rights of every Englishman," or of the pre-eminence of REFRESENTATION, allow me to quote the well-known maxim, that "a greater inheritance descends to every one of us from RIGHT and the laws, than from our parents;" on which Sir Edward Coke remarks, "RIGHT is the best birth-right the subject hath; for, thereby his goods, lands, wife, children, his body, life, honour, and estimation are protected from wrong;" a property in RIGHT, which can only be true of the right of REPRESENTATION without which there is no LIBERTY. It matters not that Coke, as a lawyer, took, like Biackstone, a mistaken view of the pre-eminent RIGHT, thinking he tound it in the ordinary LAW; whereas it is only to be found in the Con-STITUTION, which is " a law to the Legislature; a law which may be no more transgressed by that body, than the statutes enacted by itself may be transgressed by

the People;"* for " a free People agree upon a Constitution, by which, as a criterion of political rectitude, as a law to the Legislature, as a limit which that Legislature is never to pass, and, as on all occasions, an indispensable rule of government, they consent their affairs shall be managed." And we are to keep in mind, that the Legislature being only a derivative, fiduciary sovereignty, in trust for specific purposes, deriving not only its power, but its existence, from the will of the original, absolute sovereignty, inherent in the People, " the end and object of the Constitution therefore is, that liberty, general and individual, of the community, and of the citizens shall ever be held sacred."

I remain, dear Sir,
Truly your friend and servant,
JOHN CARTWRIGHT.

P.S. In quoting Blackstone's definition flaw, as "a rule of action which is prescribed by some unpaior, and which the inferior is bound to obey," I omitted, through haste, to remark, that, on that occasion, the influence of the Commentator's professional expexience, had probably prevailed over his professional science; for, to his observation, as a practitioner, nothing had occurred but the Law's coercive power over every man, as that of a superior over an inferior. But the same power it ought to have, and will have, although contemplated under Bracton's correct definition, as "the common will of the Republic."

In this view of it, the People by having agreed to and adopted a law, did of course consent that it should have all this coercive power, in order, that, as Black-stone himself expresses it "the whole should protect all its parts, and that every part should pay obedience to the will of the whole." Even Blackstone's own definition, had he at the same time thus explained it, would have been justifiable; since the whole nation, as a republic, kingdom, or state, may properly be called the "superior;" and an individual (over whom, to the vulgar eye, this coercive power is alone seen to operate) may be termed the "inferior." Such, however does not appear to have been the distinction present to the mind of Black-

See Letter. † 1. 160.
 † Ibid. § 1. 161.
 † I. 161.
 Ap. Civ. and Mil. on Eng. Con. 22.

^{*} Appeal to the Nation in 1812, p. 2, † Ibid.

stone, while penning his definition; which being applicable to the Decree of a French, or the Ukase of a Russian despot, could not be a definition of "the law of England," which was his subject.

Seeing, then, the nature and power of a "common will," which, when once de-clared, becomes "Law;" and knowing, that in every step of the progress in framing a statute, the business is done by taking, on every disputed question, the opinion of the legislators, which several opinious, when brought- together in the form of a statute, and declared, constitute a "will" or law; there should seem to be, in effect, no difference, whether this course be taken by the representatives of a people, or by a people them elves.

In promoting a reform in national representation, we, therefore, perceive the infinite importance of pursuing a right course for collecting the people's opinion. It being our misfortune and our complaint, that the very organ for collecting and expressing our national opinion, and will, according to the ordinary forms of the Constitution, has ceased to do its office; or, in other words, that the nation has lost the benefit of declaring its opinion through representatives, whence results an infinity of evil; the people are, therefore, reduced to the necessity of personally deslaring, on that point, their own opinion.

As individual opinion is the stuff of of which national opinion is made; and as national opinion once collected and declared, would, in effect, be the "common will," and ought, by the Constitutional Authorities, the two Houses of Parliament, and the King, to be immediately clothed in the ordinary forms of the law; so Petitious, for collecting individual opinions on the point in question, ought, on that point, to be specific, distinct, and simple; to act thus, when unanimity is the object, being pointed out by the law of nature.

PROCEEDINGS OF THE GENERAL SYNOD OF ULSFER, HELD AT COOKSTOWN, THE 23TH JUNE, 1814.

The Rev. James Morrell, the Moderator, opened this Synod by preaching from 2 Kings, 10. 16: then constituted it by prayer: after which were present from the several Presbyteries the following members, viz. from

TYRONE PRESBYTERY. Ministers. Dr. Dickson, SELFAST MAG. NO. LXXIII.

Ministers. William Vloore, John Davidson, John Cowan, David Benner, William Brown.

Elders. Thomas Sloan. John Young. John Campbell.

Robert Cunningham James Wilson,

Robert Allen,

William Dunlop. Henry Hunter. ARMAGH PRESBYTERY.

Dr. Neilson. Thomas Cuming. James Bankhead. Dr. William Neilson. Andrew G. Malcom.

Robert Adams, Archd. Aston. James Davis Wm. Graham. STRABANE PRESBYTERY.

William Dunlop. William Porter. David Guilkie. John M'Farlane.

DERRY PRESBYTERY.

Dr. Black. George Hay. James Johnston.

TEMPLEPATRICK PRESBYTERY. Robert Orr. Robert Campbell. -

Nathaniel Alexander, John Mairs. Henry Cook, William Baird.

DROMORE PRESBYTERY. John Thomson, Robert Lewis. John Millwain. Hamilton Dobbin.

William Wright, John Hanna. William Magowan,

John Johnston, Hugh Lockhart. James M. Clelland.

John White. Gilbert Crombie. BELFAST PRESBYTERY.

Henry Simson. James M'Cullogh, James Riddle. Fletcher Blakely.

BANGOR PRESBYTERY.

Robert Acheson. John Mulligan. Hugh Woods. Henry Montgomery. William Skelly,

DUBLIN PRESBYTERY.

John Baird.

BALLYMENA PRESBYTERY. Thomas Henry. Henry Henry, John Browniees. John Hall.

Robert Stewart. Mathew Elder.

Geo. M'Clelland, John Smith.